



Overview

"The goal? Give clients the best and clearest advice possible. Whether it's an iconic brand or a startup on the rise, I balance present-day realities with long-term aspirations and, above all, treat each brand like it's my own."

Leo Kittay litigates and counsels clients on trademark, copyright, unfair competition, false advertising, right of publicity, and related commercial matters. He has deep experience advising young and emerging growth companies — from promising early-stage ventures to some of the most celebrated startups in the world — on the full range of issues relating to brands and content. Leo coaches companies on how to invest efficiently and strategically to protect their intellectual property and manage enforcement.

Recently described as a "key partner" in *Chambers USA*, Leo advises multinational companies across diverse industries on launching new brands, logos and marketing programs, formulates protection and enforcement strategies for trademark and copyright

portfolios of all sizes, negotiates IP transactions, performs pre-publication reviews, and litigates disputes through trial and appeal before U.S. federal and state courts, as well as administrative tribunals.

Peloton, WeWork, Away Travel, Overtime, Bonobos, Sony Interactive and Warner Bros. are some of the clients Leo advises. He also represents clients across industries including consumer products, apparel, music and entertainment, luxury goods, insurance and financial services, publishing, and not-for-profit charities.

Prior to joining Fross Zelnick, Leo worked as a litigation associate at Covington & Burling LLP. Leo worked as a theater and television actor in New York City for ten years before he began practicing law.

Representative Experience

Beyond the reported decisions listed above, Leo has worked on the following matters:



- Defending Peloton Interactive, Inc. in a federal trademark and unfair competition dispute in the Northern District of California regarding Peloton's use of the term "Bike+" within the model name of its premium stationary bike, the PELOTON Bike+. The lawsuit was brought by a mobile app development company that owned a trademark registration for the mark BIKE+ for use with a cycling app.
- Representing Peloton Interactive, Inc. in a federal false advertising claim in the Central District of California. The complaint alleged that the defendant, a retailer of fitness products, was making false and misleading statements within comparative advertising.
- Defending Peloton Interactive, Inc. in a federal trademark infringement lawsuit in the Eastern District of Pennsylvania against a beverage company that asserted prior rights in the mark PELOTON.
- Representing declaratory judgment plaintiff sports media company Overtime, Inc. against The Ohio State University. The litigation, in the Eastern District of New York, centered on determining the scope of the university's rights in its O trademark.
- Filing suit, as well as for a temporary restraining order and preliminary injunction on behalf of Overtime, Inc. against retail giant Dick's Sporting Goods. In the action, in the Eastern District of New York, Overtime sought to shut down a newly launched line of retail stores named OVERTIME By Dick's Sporting Goods.
- Representing in the Eastern District of Michigan the declaratory judgment plaintiff Materialize, Inc., a streaming database startup, against a

- publicly traded 3D-printing company named Materialise, N.V., which alleged that Materialize had infringed its primary trademark. Materialize successfully defeated the plaintiff's motion to dismiss and resolved the litigation amicably.
- Asserting trade dress claims in the Southern
 District of New York on behalf of Away Travel
 against a competing luggage manufacturer
 based on the product design of the AWAY
 suitcase.
- Defending DC Comics in the U.S. Court of Appeals for the Ninth Circuit in a copyright infringement case involving the Batmobile. The court held that Batman's famous car was subject to copyright protection as a character and, in so doing, set forth a new, three-part test for determining protection of a character appearing in comic books, television programs or films under the 1976 Copyright Act, independent of any specific work in which it has appeared and irrespective of whether it "lacks sentient attributes and does not speak."
- Defending tech startup Goldcast Inc. in a false advertising litigation in the Northern District of California against a competitor in the digital events space, On24, Inc.
- Defending Sundance Channel and others in a copyright infringement litigation brought by an author in the District of New Jersey. The case concerned the claim that the Sundance series Brick City infringed on the plaintiff's novel, and the representation included a successful defense in the U.S. Court of Appeals for the Third Circuit.
- Litigating on behalf of DC Comics in the United States Patent & Trademark Office's Trademark



Trial & Appeal Board against a real estate professional who sought a federal trademark registration for the mark SUPER WOMAN OF REAL ESTATE.

- Advised Bonobos, Inc. on matters relating to trademark and copyright in connection with its acquisition by Walmart for reportedly \$310 million.
- Represented Peloton Interactive, Inc. in a false advertising and copyright litigation against a competing retailer.
- Manage coordinated, multi-jurisdictional litigations and trademark oppositions on behalf of WeWork Companies, Inc. in its successful effort to prevent the billion-dollar, Chinese competitor UrWork from expanding outside of its home country.
- Negotiate on behalf of a Fortune 50 consumer products company enterprise licenses with stock photo houses.
- On behalf of a leading independent publisher, perform pre-publication review of dozens of non-fiction works, including memoirs, true-crime novels and biographies.
- Defend a renowned tile company in a federal litigation against a competitor alleging copyright infringement of a tile design.

Education

Princeton University (AB, cum laude, 1996)

Philosophy, The Class of 1869 Prize in Ethics

Brooklyn Law School (JD, *magna cum laude*, 2008)

Order of the Coif, Donald W. Matheson Memorial Prize, Faculty Scholar, Prince Scholar, Gerald

Shargel Scholarship for Excellence in Criminal Law, Brooklyn Law Review (Articles Editor)

Admissions

Bar Admissions

New York

Court Admissions

U.S. District Court, Eastern, New York

U.S. District Court. Southern. New York

Focus

- Startup & Emerging Growth
- Entertainment Properties
- Celebrities, Bands & Athletes
- Consumer Products
- Fashion
- Hospitality & Hotels
- Jewelry & Watches
- Personal Care & Cosmetics
- Publishing
- Toys

Services

- Trademark
- Copyright
- Social Media & Domain Names
- Litigation
- Transactions
- Publicity & Privacy



Associations

Professional

New York City Bar Association (former member, Media and Communications Law Committee)

Community

NationSwell Council, a membership community of service-minded leaders

The New Food Economy (newfoodeconomy.org) (board of advisors of award-winning news platform)

Brooklyn Law School Board of Trustees (former member)

Recognition

World Trademark Review's WTR 1000 2020-24, "Kittay knows how to secure the win that means the most for his clients' business goals."

The Legal 500 US 2020 – named one of five "Next Generation Partners" in trademark litigation nationwide

Managing Intellectual Property IP STARS, 2022-23 Super Lawyers® Intellectual Property Litigation, New York Metro 2021-23 Super Lawyers® Rising Star 2015-19

Decisions

- World Champ Tech, LLC v. Peloton Interactive, Inc.
- DC Comics v. Towle
- DC Comics v. Beling
- DC Comics v. Gotham City Networking, Inc.
- Jackson v. Booker

Speaking Engagements

- Building Your Brand Fortress: Trademarks and Copyrights for Startup Warriors, Austin Startup Week 2023
- Branding Law: How to Soft Launch, Iterate, and Pivot, Austin Startup Week, November 2022

Clerkship

Law Clerk to Hon. Alvin K. Hellerstein, U.S. District Judge, Southern District of New York (2008-2009)